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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/578,895	05/26/2000	Shunpei Yamazaki	0756-2160	8423

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NIXON PEABODY, LLP
8180 GREENSBORO DRIVE
SUITE 800
MCLEAN, VA 22102

EXAMINER

MUNSON, GENE M

ART UNIT	PAPER NUMBER
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2811

DATE MAILED: 12/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

578,895

Applicant(s)

S. YAMAZAKI ET AL

Examiner

G. MUNSON

Group Art Unit

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—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 2 December 2002
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-10, 14-54 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 2-4, 6, 7, 9, 10, 25-27, 29-31, 38, 39, 41, 42, 49, 50, 52, 53 is/are allowed.
- ☒ Claim(s) 1, 5, 14-17, 20, 23, 24, 28, 32, 33, 36, 37, 40, 43, 44, 47, 48, 51, 54 is/are rejected.
- ☒ Claim(s) 8, 18, 19, 21, 22, 34, 35, 45, 46 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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Claims 14-16, 24, 28, 32, 37, 40, 43, 48, 51 and 54 are rejected under 35 U.S.C. 112, second and fourth paragraphs. It is unclear how the claims further limit the electroluminescence display device of claims 1-3, 17, 25, 29, 33, 38, 41, 44, 49 and 52. The dependence appears backwards and confusing where the subject matter does not comprise the "electronic" device. This rejection could be overcome if each of the claims were put in independent form including the limitations of the claims on which they depend, because the "electronic" device of the claims would comprise the electroluminescence display device.

Claims 14-16, 24, 28, 32, 37, 40, 43, 48, 51 and 54 are rejected under 35 U.S.C. 112, first paragraph. The listed "electronic" devices are not clearly described to enable a person skilled in the art to make and use the devices. Figures 16 and 20 may be sufficient for a design patent but not for a utility patent.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 5, 17, 20, 23, 33, 36, 44 and 47 are rejected under 35 U.S.C. 102 as unpatentable as shown by Yamada. See Figures 3-5 with "first" transistor or "switching" element 30 and "second" transistor or "current control" element 40. For amended claim 17, Figure 4A shows "impurity" region 33LD and "source" or "drain" regions 33LD with the same impurity concentration.

Claims 14, 24, 37 and 48 are rejected under 35 U.S.C. 103 as unpatentable over Yamada and Tang et al '365, considered together. It would have been obvious to use pixels as in Yamada (Figures 3-5) in order to achieve flat panel displays, as noted in Tang et al (columns 1-2), for known electronic devices as claimed.

The references are of record.

The arguments in the response, filed 2 December 2002, have been considered but are not persuasive, as noted above. Contrary to the response (page 3), the listed "electronic" devices are integral to the invention of claims 14-16, 24, 28, 32, 37, 40, 43, 48, 51 and 54. Thus, it is reasonable to doubt that the claimed invention could be carried out based on the present disclosure since the

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“electronic” devices at issue are integral to the practice of the invention and the application does not clearly describe their structure. *In re Buchner*, 18 USPQ2d 1331, 1332 (Fed. Cir. 1991). The response (page 3) does not demonstrate that the “electronic” devices are clearly described to enable a person skilled in the art to make and use the devices. Contrary to the response (pages 3-4), here the claim format “results in confusion.” MPEP 2173.05(f). The portion of MPEP 608.01(n), cited in the response (page 4), applies where the further limitation is clear. Here the further limitation of the “electroluminescence display” device is unclear. However, the rejection based on 35 U.S.C. 112, second and fourth paragraphs, could be overcome, as noted above. Contrary to the response (page 4), no English translation of the certified copy of foreign priority papers has been timely filed (37 CFR 1.55).

Claims 2-4, 6, 7, 9, 10, 25-27, 29-31, 38, 39, 41, 42, 49, 50, 52 and 53 are allowed over the art of record. Moreover, claims 8, 18, 19, 21, 22, 34, 35, 45 and 46 are objected to as dependent upon rejected claims but would be allowable if claims 8, 18, 19, 21, 34, 35, 45 and 46 were each put in completed form as independent claims including all limitations of claims 1, 8; 17, 18; 17, 19; 17, 21; 33, 34; 33, 35; 44, 45; 44, 46.

This action is **FINAL**.

This action is a **final rejection** and is intended to close the prosecution of this application. Applicant's reply under 37 CFR 1.113 to this action is limited either to an appeal to the Board of Patent Appeals and Interferences or to an amendment complying with the requirements set forth below.

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If applicant should desire to appeal any rejection made by the examiner, a Notice of Appeal must be filed within the period for reply identifying the rejected claim or claims appealed. The Notice of Appeal must be accompanied by the required appeal fee of appropriate amount.

If applicant should desire to file an amendment, entry of a proposed amendment after final rejection cannot be made as a matter of right unless it merely cancels claims or complies with a formal requirement made earlier. Amendments touching the merits of the application which otherwise might not be proper may be admitted upon a showing a good and sufficient reasons why they are necessary and why they were not presented earlier.

A reply under 37 CFR 1.113 to a final rejection must include the appeal from, or cancellation of, each rejected claim. The filing, whichever is longer, of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the final rejection unless the examiner holds the claims to be in condition for allowance. Accordingly, if a Notice of Appeal has not been filed properly within the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), the application will become abandoned.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the

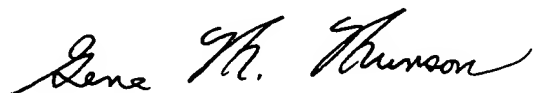
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date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action. No claim is allowed.

Any inquiry concerning this communication should be directed to G. Munson at telephone number (703) 308-4925 or 0956.

G. Munson

12-24-02



GENE M. MUNSON
EXAMINER
GROUP ART UNIT 2811